

DEPARTMENT OF SOCIAL SERVICES

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July 21, 1982

ALL COUNTY INFORMATION NOTICE-1-88-82

TO: ALL COUNTY WELFARE DEPARTMENTS
ALL PUBLIC AND PRIVATE ADOPTION AGENCIES
ALL DEPARTMENT OF SOCIAL SERVICES ADOPTION DISTRICT OFFICES

SUBJECT: Questions and Answers From March, 1982 Training Workshops
on Regulations for Relinquishment and Independent Adoption
Programs

REFERENCE: All County Letter No. 82-16

At the training workshops in March, 1982 for the new state regulations on taking relinquishments and consents, the Adoptions Branch agreed to follow up with written responses to some of the questions raised. Attached are the questions and our responses.

A handwritten signature in cursive script, appearing to read "Claude Finn", is written over the typed name.

CLAUDE FINN

FER Deputy Director
Adult and Family Services Division

Attachment

cc: CWDA

RELINQUISHMENT PROGRAM

WORKSHOP QUESTIONS

1. Under what section of the law does the agency bring an action to determine parental custody rights when revocation is requested by a non-custodial parent?

ANSWER: This question refers to section 30625.3(b) of the regulations which state that when a relinquishment is revoked by a parent who did not give physical custody of the child, the agency shall initiate court proceedings to determine whether that parent has a right to physical custody of the child or whether the adoption plan can proceed. It is not possible to cite one particular section since cases vary so much in detail. Agencies should request consultation from the Department and should confer with their county counsels on a case by case basis regarding which sections of the law would apply when initiating legal actions in situations of this type. The agency must initiate the legal proceeding if the parent fails to do so.

2. The language of the AD 885 Statement of Understanding-Spanish version is inaccurate and misleading in some sections. Can some of the wording of this form be changed?

ANSWER: Suggestions have been submitted for changing some of the wording of the Spanish version of the AD 885 form. We have requested that the Languages Services Unit of our Department review the language of the form and the suggested changes with the aim of developing wording that describes more clearly the meaning and effect of relinquishment.

Will DSS develop brochures for birth parents with general information on the relinquishment process?

ANSWER: Yes, we are in the process of writing an informational brochure for relinquishing parents that will give answers to some of the basic concerns a birth or legal parent might have about the relinquishment process.

4. What should the agency do when the holding period for a relinquishment has ended and the parent has asked for more time before the relinquishment is filed but does not want the child back?

ANSWER: Agencies should not hold a relinquishment more than 30 days unless the purpose is to delay filing until the rights of the other parent are terminated. If the relinquishment is held for 30 days and the parent asks for more time before the relinquishment is filed, the agency should treat this as a revocation request. The parent then has 14 days to revoke the relinquishment in writing per Section 30625.1.

5. Section 30625(c)(2) requires that the agency confirm in writing that the relinquishing parent has not requested the return of the child when filing a relinquishment that was held for up to 30 days. Can this information be added to the AD 90 form?

ANSWER: We have determined that a confirmation that the parent did not request the return of the child during the 30 day holding period can be added to the AD 90 form. We will change the AD 90 form in the near future so that this information can be included. In the interim, agencies must develop their own forms or form letter to meet this requirement.

Relinquishment Workshop Questions (continued)

6. Can a parent refuse to sign a particular item on the Statement of Understanding?
How does this affect the status of the relinquishment?

ANSWER: A relinquishment should not be taken until all items on the Statement of Understanding are initialed. By initialing the item, the parent indicates that he understands the content of the item and the effect on his parental rights. This does not mean, however, that the parent necessarily agrees with every item.

7. How many times can a parent ask to rescind his relinquishment?

ANSWER: A parent may ask to rescind his relinquishment any number of times until the adoption is finalized. Each request to rescind starts a new 14-day period in which the parent must submit the request in writing. The agency has no obligation to agree with the rescission or to return the child to the parent unless the agency agrees with the parent's plan of care for the child and determines that it is in the child's best interest to be returned to the birth and/or legal parent.

8. Does a revocation have to be in writing or can the agency return the child to the parent without a written request?

ANSWER: Section 30625.1(a)(2) of the regulations requires that revocations of relinquishments be in writing. The written revocation must be submitted to the agency within 14 days from the time oral declaration of revocation is made or the oral declaration of intent to revoke is nullified. Since the agency cannot return the child to the parent until the revocation is in written form, it may be necessary to offer assistance to the parent in completing the form.

9. What should agencies do if there are no court certified translators in their area?

ANSWER: The Department recognizes that there are no court certified translators in many localities. If an agency cannot obtain the services of a court certified translator, three other options are available. Translations may be made by the agency's own staff if that person is not working in the adoptions program and is competent in the language to be translated. A second choice is to contract with an outside translator who is competent in the needed language. Agencies may also choose to have translations made by the DSS-Languages Unit in Sacramento. If this last option is chosen, the agency should direct their request through their adoptions program consultant.

10. How can the social worker or agency staff check the accuracy of a translated version of the relinquishment form?

Relinquishment Workshop Questions (continued)

ANSWER: All translated versions of the relinquishment forms obtained locally by the agency or submitted to the agency by a translator provided by the parent may be reviewed for accuracy by the DSS-Languages Unit in Sacramento if the agency chooses to utilize this service. Requests for reviews should be made through the agency's adoptions program consultant. Translations may also be checked by a competent local translator selected by the agency or by an agency employee who is competent in the needed language and who does not work in the adoptions program.

11. Is a volunteer considered part of the adoptions program for translator/reader purposes?

ANSWER: Section 30616(d) specifies that a translator or reader secured by the agency shall not be an agency or Department employee who is involved in providing adoption services. This section is interpreted to include any volunteers who work in the agency or Department adoptions program on a regular basis.

12. If a parent requests to have his relinquishment held for a certain period of time and then changes his mind and wants it sent earlier or later than the date specified on AD 885, does the agency have to take another AD 885?

ANSWER: No, if the AD 885 - Statement of Understanding sent to DSS shows a holding period that conflicts with the period the relinquishment was actually held, the agency should attach an explanation as to why this occurred along with a signed statement from the parent that he/she wants the relinquishment filed earlier than previously stated.

13. What is the policy of the State Department of Social Services on "open adoptions"?

ANSWER: There is nothing in state law or adoptions regulations that prohibits an adoption agency from arranging a meeting between birth parents and adoptive parents before an adoption is finalized. Any information sharing at such a meeting is up to the birth parents and the adoptive parents. Also, any plans for information sharing after the adoption is finalized is the decision of the birth parents and the adoptive parents. The agency's role in information sharing is to provide non-identifying general background information, including health history, to all parties to the adoption regardless of whether those parties meet each other. After the adoption is finalized, the agency may also share non-identifying updated information provided by the birth parents, the adoptive parents, or the adoptee, if he/she is over 18 years of age.

INDEPENDENT PROGRAM

WORKSHOP QUESTIONS

1. Some presumed father/legal parents do not have the physical custody of the child and do not place the child with the adoptive parents. Also the alleged natural father does not have parental rights until he establishes his paternity and becomes the presumed father. The current Statement of Understanding does not cover these situations; therefore, there should be at least three different sets of the Statement of Understanding.

ANSWER: A revised Statement of Understanding will reflect the suggestion: There will be three forms.

2. Many young birth mothers do not wish to know about the adoptive parents and they refuse to hear anything about the child or the adoptive parents. When the young unwed mother signs the consent, she will in some instances wish to cover the consent form. Can the adoption worker allow this?

ANSWER: A consent has to be taken willingly and voluntarily, and must be an "informed consent". Therefore, the adoption worker should discuss this with the consenting parent. After such discussion, if she still wishes to cover the names of the petitioners, then her decision should be accepted and documented in the case record.

3. What if we get an out-of-state consent not meeting our requirement? (Some examples are a consent without the Statement of Understanding, without notarization, consent signed is not a California form, consent taken without the parent's information (AD 67), or consent form sent by other than the adoption agency, i.e. the attorney on the case.)

ANSWER: A conditional report should be submitted as soon as possible, asking the court to decide on the validity of the consent. An All-County Letter will be issued on this subject in the near future.

4. Is it possible for an agency-certified bilingual staff person to act as a translator/reader for non-English speaking consenting parent?

ANSWER: Title 22, C.A.C. Section 30717(d) provides that the translator or the reader can be an agency or Department employee if not involved in providing adoption services.

5. How can a worker sign the Statement of Understanding when she does not know whether the translation is accurate in the parent's native language? Or in this kind of situation shall the worker just leave the Statement of Understanding unsigned?

ANSWER: The worker will sign the form based on the statement of accuracy signed by the translator or reader which will be submitted to the court as part of the signed consent form.

6. Item #6 on the Statement of Understanding is too long. Can it be reduced in length or shorter sentences used?

ANSWER: This item will be revised as suggested.

Independent Workshop Questions (con'd)

7. Re: Item #6 wouldn't "for any other reason" cover all the reasons for the parent to change her mind after the consent is signed?

ANSWER: C.A.C. Section 30717(a)(7) provides the consenting parent with an opportunity to withdraw the signed consent when there is a change in the marital status of the petitioners and this must be included in the Statement of Understanding. This item will be revised in the new form.

8. What if the consenting parent understands but does not "agree" with any item as stated in the Instructions for the Statement of Understanding #3 but still wishes to sign the consent just "to be relieved from any parental responsibility", can he (an alleged natural father, for example) sign the consent form?

ANSWER: Yes. As long as the parent understands the content of each item he may sign the consent, although he may not necessarily agree with all items. If, however, he believes the form, or an individual item is not appropriate, as in the case of an alleged father who is uncertain about paternity, he may wish to sign a waiver or denial of paternity rather than a consent.